

§ 120.11

perform, or immediately available to perform such function.

(l) *Positive rate for random drug testing* means the number of verified positive results for random drug tests conducted under subpart E of this part, plus the number of refusals of random drug tests required by subpart E of this part, divided by the total number of random drug test results (*i.e.*, positives, negatives, and refusals) under subpart E of this part.

(m) *Prohibited drug* means marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines, as specified in 49 CFR 40.85.

(n) *Refusal to submit to alcohol test* means that a covered employee has engaged in conduct including but not limited to that described in 49 CFR 40.261, or has failed to remain readily available for post-accident testing as required by subpart F of this part.

(o) *Refusal to submit to drug test* means that an employee engages in conduct including but not limited to that described in 49 CFR 40.191.

(p) *Safety-sensitive function* means a function listed in §§ 120.105 and 120.215.

(q) *Verified negative drug test result* means a drug test result from an HHS-certified laboratory that has undergone review by an MRO and has been determined by the MRO to be a negative result.

(r) *Verified positive drug test result* means a drug test result from an HHS-certified laboratory that has undergone review by an MRO and has been determined by the MRO to be a positive result.

(s) *Violation rate for random alcohol testing* means the number of 0.04, and above, random alcohol confirmation test results conducted under subpart F of this part, plus the number of refusals of random alcohol tests required by subpart F of this part, divided by the total number of random alcohol screening tests (including refusals) conducted under subpart F of this part.

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14 CFR Ch. I (1-1-13 Edition)

Subpart B—Individuals Certificated Under Parts 61, 63, and 65

§ 120.11 Refusal to submit to a drug or alcohol test by a Part 61 certificate holder.

(a) This section applies to all individuals who hold a certificate under part 61 of this chapter and who are subject to drug and alcohol testing under this part.

(b) Refusal by the holder of a certificate issued under part 61 of this chapter to take a drug or alcohol test required under the provisions of this part is grounds for:

(1) Denial of an application for any certificate, rating, or authorization issued under part 61 of this chapter for a period of up to 1 year after the date of such refusal; and

(2) Suspension or revocation of any certificate, rating, or authorization issued under part 61 of this chapter.

§ 120.13 Refusal to submit to a drug or alcohol test by a Part 63 certificate holder.

(a) This section applies to all individuals who hold a certificate under part 63 of this chapter and who are subject to drug and alcohol testing under this part.

(b) Refusal by the holder of a certificate issued under part 63 of this chapter to take a drug or alcohol test required under the provisions of this part is grounds for:

(1) Denial of an application for any certificate or rating issued under part 63 of this chapter for a period of up to 1 year after the date of such refusal; and

(2) Suspension or revocation of any certificate or rating issued under part 63 of this chapter.

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§ 120.15 Refusal to submit to a drug or alcohol test by a Part 65 certificate holder.

(a) This section applies to all individuals who hold a certificate under part 65 of this chapter and who are subject to drug and alcohol testing under this part.